

REMARKS

In the Final Office Action, the Examiner: (1) objected to each of claims 3, 4, 6-10, 12, and 19 as being dependent upon a rejected base claim, but indicated these claims were otherwise allowable if rewritten in independent form, and (2) rejected claims 1, 2, 5, 11, 13-15, 16, 17, 18, and 20 under 35 U.S.C. § 103(a) as being unpatentable over Itzhaky (U.S. Patent No. 6,450,204) in view of Schafft (U.S. Patent No. 3,588,552).

By this Amendment, Applicants amend claim 5 to correct a minor typographical error and Applicants respectfully traverse the rejection of claims 5, 11, 13-15, 16, 17, 18, and 20 under 35 U.S.C. § 103(a) for the following reasons.

Applicants respectfully submit that Itzhaky may only be 35 U.S.C. § 102(e) prior art to the instant application. Further, Applicants respectfully submit that under 35 U.S.C. § 103(c), a § 102(e)/103(a) rejection of applications filed on or after November 29, 1999 may be overcome by showing that the subject matter of the reference and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. See 35 U.S.C. § 103(c).

The instant application was filed on January 31, 2002, and claims priority to a provisional application filed on January 31, 2001. Because the instant application was filed on January 31, 2002, after November 29, 1999, 35 U.S.C. § 103(c) is applicable.

Pursuant to 35 U.S.C. § 103(c), Applicants respectfully traverse the rejection of claims 1, 2, 5, 11, 13-18, and 20 under 35 U.S.C. § 103(a) because the present invention and the Itzhaky patent were subject to an obligation of assignment to Drei-S-Werk, a German company. Specifically, the Itzhaky patent was assigned to Drei-S-Werk by Mr. Itzhak M. Itzhaky, the sole inventor, through an assignment executed on

January 25, 2001. Further, when the invention related to the instant application was made, Mr. Bernhard Dollgast was an employee of Drei-S-Werk and was obligated to assign his inventions to Drei-S-Werk. Mr. Till Schmauser and Mr. Erik Schmauser, the other two inventors, were directors of Drei-S-Werk and had separate contracts with Drei-S-Werk obligating them to assign their inventions to Drei-S-Werk. Accordingly, applicants make the following statement:

U.S. Application Serial No. 10/066,471 and U.S. Patent No. 6,450,204, issued to Itzhaky, were, at the time the invention of U.S. Application Serial No. 10/066,471 was made, commonly owned and/or subject to an obligation of assignment to Drei-S-Werk.

Accordingly, Applicants respectfully submit that Itzhaky is disqualified as prior art under § 103(c) for any § 102(e)/103 rejection. Thus, at least for this reason, claims 1, 2, 5, 11, 13-18, and 20 are allowable over the cited references.

Applicants respectfully request that this Amendment under 37 C.F.R. § 1.116 be entered by the Examiner, placing claims 1-20 in condition for allowance. Applicants submit that the proposed amendment does not raise new issues or necessitate the undertaking of any additional search of the art by the Examiner, since all of the elements and their relationships claimed were either earlier claimed or inherent in the claims as examined. Therefore, this Amendment should allow for immediate action by the Examiner.

Finally, Applicants submit that the entry of the amendment would place the application in better form for appeal, should the Examiner dispute the patentability of the pending claims.

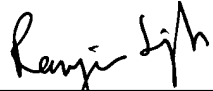
In view of the foregoing remarks, Applicants request the entry of this Amendment, the Examiner's reconsideration and reexamination of the application, and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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Dated: May 11, 2004

By: 
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